

Approaches for Authorizing Incidental Take

The U.S. Fish and Wildlife Service (USFWS) is considering rulemaking to authorize incidental take of migratory birds. Rulemaking would establish standards for all approaches, and the programmatic environmental impact statement (PEIS) would consider the effects from each approach (and from combined approaches) on birds and the affected environment. The USFWS will also consider continuation of current practices of working with industry sectors to reduce incidental take through non-binding guidance.



Photo by: Chelsi Hornbaker,
U.S. Fish & Wildlife Service

1. General Authorization by Industry Sector

This approach would establish a general authorization of incidental take from hazards of certain industries that meet conditions and standards for the protection and mitigation of incidental take of migratory birds. For certain hazards there are specific mitigation measures that can be implemented to prevent or reduce incidental bird deaths. The USFWS has worked extensively with some of these industries to develop best management practices to avoid or minimize bird deaths, and has incorporated such measures into guidance documents for industry's use. The USFWS will also consider other industry sectors for which a general authorization may be appropriate, such as wind energy generation. Some examples of affected industry practices include:

- Oil, gas, and wastewater disposal pits can entrap birds attracted to what they perceive is a source of water. Birds that land on or fall into pits become covered in oil and may die from drowning, exhaustion, exposure, or effects of ingested oil. Closed systems or properly maintained netting prevents birds from entering these sites.



Photo by: Steve Hillebrand,
U.S. Fish & Wildlife Service

- Methane or other gas burners at oil production sites, landfills, and other locations provide a hazard to birds from burning, entrapment in pipes or vents, or direct mortality from flame flare. Removing perches, installing perch deterrents, and covering pipes and other small openings can minimize this take.
- Communication towers can have a significant impact on birds, especially those migrating at night. Birds may fly into the towers or the guy wires that support them. Carefully selecting locations and using recommended design features such as appropriate lighting, shorter tower heights, and eliminating or reducing the use of guy wires can minimize this source of bird mortality.
- Electric transmission and distribution lines impact a variety of birds through electrocution and collision. To reduce electrocutions, poles can be made bird-safe through pole and equipment design or through post-construction retrofitting measures. Collisions are best minimized through careful site selections.

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Photo by: Steve Hillebrand,
U.S. Fish & Wildlife Service





Photo by: Elizabeth Jackson,
U.S. Fish & Wildlife Service

The USFWS will also develop additional general permits in the future by working with other industry sectors to understand the impacts of their activities on migratory birds and identify feasible measures to minimize or mitigate such impacts.

2. Individual Permits

Establish legal authority for issuing individual incidental take permits for projects or activities not covered under a general authorization. The actual issuance of individual permits would require additional analysis and review under the National Environmental Policy Act (NEPA) and therefore, the USFWS does not intend to issue any individual permits as part of this action—only establish the legal authority to do so.

3. MOUs with Federal Agencies

Establish a procedure for authorizing incidental take by federal agencies using a memorandum of understanding (MOU). The MOU will act as the vehicle to outline how federal agencies will identify and implement measures and actions to reduce incidental take. Expanding existing MOUs could provide an efficient programmatic approach to regulating and authorizing incidental take caused by federal agency actions. Appropriate NEPA analysis would be conducted for the development of any MOU.

The USFWS would like your comments on:

- Approaches being considered for authorizing incidental take
- Actions being considered to implement these approaches
- Other actions the USFWS should consider with respect to the regulation and authorization of incidental take
- How to integrate existing guidance and plans, such as Avian Protection Plans, into the proposed regulatory framework
- Whether actions should distinguish between existing and new industry facilities and activities
- If new industry facilities and activities are addressed by the USFWS, whether additional NEPA review should be conducted in order to provide incidental take authorization for such facilities and activities

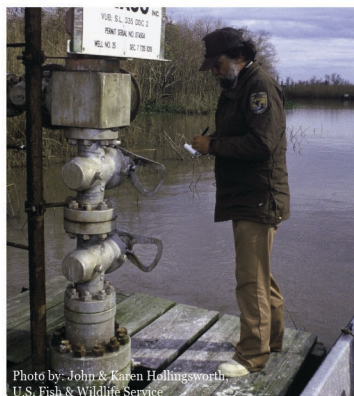


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